*** THE HON'BLE MR JUSTICE RAMESH RANGANATHAN**

+ WRIT PETITION NO : 18878 1996

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%16 -11-2005

K.Mohan Lal, S/o Ramulu, aged 39 years, Junior Assistant (Purchase), O/o Zonal workshop, Karimnagar and three others.

… Petitioners

Vs.

$ Vice Chairman & Managing Director, A.P.State Road Transport Corporation, Musheerabad, Hyderabad.

…. Respondent

! Counsel for the petitioners: Mr.G.Vidyasagar,

^ Counsel for respondent: Mr.V.T.M.Prasad,

< Gist:

>Head Note

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[1] AIR 1977 M.P. 243

[2]W.A.No.1170 of 1999, dt:16.08.1999

[3]AIR 1965 SC 136

[4]AIR 1969 SC 267

[5]AIR 1969 SC 634

[6]AIR 1976 SC 789

[7](2001) 252 ITRI

[8]1999 AIR SCW 968

[9](2005) 1 SCC 289

[10]AIR 1961 SC 1170

[11]AIR 1977 SC 2328

[12]1966 AC 182

[13]AIR 1966 SC 1678

[14] 1949 AC 530 (HL)

[15]AIR 1975 SC 43

[16]AIR 1964 SC 766

[17]AIR 1952 SC 369

[18]AIR 1953 SC 394

[19](2003) 3 SCC 309

[20]AIR 1969 SC 513

[21]AIR 1989 SC 682

[22])2003) 3 SCC 410

[23]AIR 1959 SC 149

[24]AIR 1986 SC 180

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.18878 OF 1996

ORDER:

Four, erstwhile Junior Assistants (Purchase), question the action of the A.P.S.R.T.C, in notifying them in the cadre of Junior Assistants (Material), as illegal, arbitrary and unjust and seek a direction that they be placed in the seniority list of Junior Assistant (Purchase), pursuant to the conversion order dated 09.11.1989, with all consequential benefits.

Facts, to the extent necessary for this writ petition, are that the 1st petitioner was appointed as a conductor on 09.03.1978, the second petitioner was appointed as comptist on 17.05.1978 and the 3rd and 4th petitioners were appointed as conductors on 13.02.1981 and 26.08.1985 respectively. All the four petitioners were selected, appointed by transfer as Junior Assistants and allotted to the personnel department. The 1st petitioner was appointed as junior assistant on 29.08.1986, the 2nd petitioner on 26.05.1985 and 3rd and 4th petitioners on 01.09.1987 and 05.08.1987 respectively. The petitioners submitted a representation requesting that their services be converted from the personnel department to the purchase department, since there were a large number of vacancies and better avenues for promotion in the purchase department. The representations, submitted by the petitioners, during the period May to December 1987, were forwarded to the regional manager, the competent authority to transfer employees from one department to another. The

regional manager, Karimnagar vide office order dated 09.11.1989 transferred all the four petitioners, who were working as junior clerks in the personnel department, to the controller of stores at Karimnagar, as junior clerks (purchase). Condition No.1, of the said office order dated 09.11.1989, prescribed that the petitioners would forfeit their seniority in the cadre of junior clerks in the personnel department and that their seniority in the cadre of junior clerks (purchase) of stores and purchase department shall be maintained. Condition No.2 stipulated that the petitioners would not ask for retransfer to their parent department. Consequent to their conversion from the personnel department to the purchase department, the petitioners, by order dated 09.11.1989, were posted, as junior clerks (purchase), in the office of the controller of stores, Karimnagar.

The petitioners filed W.P.No.15597 of 1993 seeking a direction from this court to include the services, rendered by them in the personnel department, for the purpose of seniority on conversion as junior assistants in the purchase department. W.P.No.15597 of 1993 was dismissed by this court holding that the petitioners were not entitled to claim seniority for the services rendered by them in the personnel department and that they had to take the seniority in the purchase department pursuant to the conversion orders dated 09.11.1989. Writ Appeal No. 852 of 1996, preferred by the petitioners, against the order in W.P.NO. 15597 of 1993, was also dismissed.

The respondents issued notification no. P3/367(1)94-WM:KR dated 25.09.1995 publishing the zonal seniority list of junior assistants (material) wherein the petitioners' names were shown at serial no. 15, 14, 16 and 17 respectively. Another notification No. P3/367 (1) /94/WM: KR was issued on the very same day i.e., on 25.09.1995, wherein the seniority list of junior assistants (purchase) was published. Despite the petitioners having been converted to the purchase department, by office order dated 09.11.1989, their names were not shown in the seniority list of junior assistants (purchase).

Petitioners would contend that since they had neither requested for nor had they submitted any representation seeking conversion from the purchase department to the material department, it was not open to the authorities to include their names in the seniority list of junior assistants (material). It is stated that in the zonal workshop, Karimnagar, promotion to the posts of junior

clerks and higher cadres are separately made for the purchase department and the material department and that the petitioners were entitled to be placed in the seniority list of junior assistants (purchase) and in accordance with their seniority, be promoted to the higher post of senior assistants (purchase). Petitioners would contend that by placing them in the cadre of junior assistant (material), their objective in coming to the purchase department, foregoing their seniority in the personnel department, was defeated. It is stated that since the petitioners did not figure in the seniority list of junior assistants (purchase), they were not considered for promotion to the post of senior assistants (purchase). Petitioners would refer to the proceedings of the departmental selection committee dated 06.08.1996 wherein orders were issued promoting junior assistants (purchase) as senior assistants (purchase) and junior assistants (material) as senior assistants (material), and contend that the said proceedings dated 06.08.1996 would itself demonstrate that in the zonal workshop at Karimnagar, two separate seniority lists for the material and purchase department was being maintained, and they were, therefore, entitled to be placed in the seniority list of junior assistants (purchase).

A counter affidavit is filed on behalf of the respondents wherein it is stated that the petitioners were appointed as junior assistants in the personnel department under direct recruitment quota, that their request for conversion to the stores and purchase department was favourably considered and orders were issued on 09.11.1989 transferring them to the stores and purchase department with the condition that their seniority in the stores and purchase department would be maintained from the date of their reporting in the department, foregoing their seniority as junior assistants in the personnel department. It is stated that the seniority of the petitioners, in the stores and purchase department, was fixed in accordance with the instructions issued by the head office in notification No. APD1/S1/232/402/87-PO.III dated 27.07.1989 and the vice chairman and managing director's circular No. PD/122/90 dated 26.10.1990, wherein it was stated that the seniority of all cadres of the stores and purchase wing had been merged with effect from 26.05.1989 i.e., from the date of approval of the board and that a common seniority list should be maintained taking into consideration the date of entry of employees in each cadre, in which they were presently working, as the criteria for fixing their seniority. The date of entry of the

petitioners, in the stores and purchase department, was taken into account for the purpose of reckoning their seniority, and accordingly the provisional seniority list, of junior assistants (material), was published in the notification dated 19.09.1991. It is stated that the objections filed by the petitioners to the provisional seniority list was examined and they were informed, vide letter dated 09.09.1992, that the seniority list was in order. It is stated that the board had taken a policy decision that the department of stores and purchase should be merged in the materials department and the seniority of junior assistants in these departments should be maintained in the category of junior assistants (material). It is further stated that subsequently the corporation was reorganized into a zonal setup and the post of junior assistant became a zonal post. In view of the merger, a common seniority list of junior assistant (material), including candidates who had reported/were recruited on or after 26.05.1989, was published, vide notification dated 25.09.1995. It is stated that the seniority of junior assistants in the stores & purchase department was merged with junior assistants (material), a common seniority list of junior assistants (material) was maintained and separate promotion to the posts of senior assistants (purchase) and senior assistants (material) were given only to those who had reported in the purchase department prior to 26.05.1989. It is contended that since the petitioners had reported, to the stores and purchase department, after 26.05.1989, their date of reporting was taken into account while reckoning their seniority in the stores and purchase department, and pursuant to the circular dated 26.10.1990, consequent to the merger of stores and purchase department with the material department, a common zonal seniority list in the material department was being maintained and the services of employees therein were to be utilized in any of the departments of either stores, purchase or material, as per requirement. The respondents would contend that the petitioners were not entitled to claim that their seniority should be maintained separately in the purchase department. It is stated that the promotions, referred to by the petitioners, were made only in cases of employees whose date of entry in the department was prior to 26.05.1989 and that the petitioners could not compare their cases with them.

In the additional counter affidavit, it is stated that the board of directors, vide

resolution No. 81 of 1989 dated 26.05.1989, had approved integration of the functions of the stores and purchase wings, to merge the seniority of all cadres and to maintain a common seniority duly taking into account the date of entry, of employees in each cadre, as the criteria for fixing seniority. The respondents, vide notification No. SPD1/S1/232 (402) 87-PO.III dated 27.07.1989, informed that the board of directors, in their resolution dated 26.05.1989, had approved to integrate the functioning of stores and purchase wing, and also to merge the seniority of all cadres and to maintain a common seniority, duly taking into account the date of entry of employee in each cadre, among the officers presently working, as the criteria for fixing seniority and that the board had approved the amended recruitment regulations which came into effect from 26.05.1989 i.e., the date of the resolution of the Board. Respondents would submit that the amended regulations, dated 27.07.1989, came into force with retrospective effect from 26.05.1989. It is stated that the corporation had issued circular No. P.D.122/1990 dated 26.09.1990 with regards integration of stores and purchase wings and the progressive implementation of the scheme. The 1st respondent, in circular PD-122/1990 dated 26.05.1990, conveyed its decision that while in principle, the scheme of integration of stores and purchase wings, as already approved by the corporation on 26.05.1989, would remain in force, it would be implemented progressively commencing from the lower cadre i.e., the material assistants and pending further communication, existing staff in various categories of stores and purchase wings upto the level of assistant manager would continue to remain in their respective cadres and vacancies arising within the respective departments would be filled as if the integration had not come into existence. The circular further envisages that in various supervisory levels where vacancies are required to be filled up by promotion, if no suitable candidates are available in the feeder cadre, such vacancies could be filled up by promotion by considering eligible employees from the other wing duly following the revised regulations. It is stated that following the circular instructions, separate seniority lists were published, one for junior assistants (purchase) prior to the cut-off date of integration ie., 26.05.1989 and another for junior assistants (material) wherein the names of junior assistants (stores), though appointed in the corporation prior to 26.05.1989 but had joined in the purchase department thereafter, were also included. It is stated that since the petitioners had reported to the stores and

purchase department only in March/April 1990, they were included in the integrated list considering their seniority in the purchase department in which they had joined after the cut-off date of 26.05.1989.

Sri G. Vidyasagar, learned counsel for the petitioners, would refer to Section 45 of the Road Transport Corporation Act and submit that any amendment to the regulations could only be made by the board of directors of the respondent corporation with the prior approval of the government and since such prior approval had not been obtained before the regulations were made, the regulations could not be said to have come into force and consequently the question of implementing the draft regulations would not arise. Learned counsel would rely on the judgment of the Full Bench of Madhya Pradesh High Court, in **M.P.S.R.T.C. Bhopal Vs. Ramachandra**, in support of his submission that the process of making regulation, under Section 45 of the Road Transport Corporation Act, is in three stages. The first stage envisages the board of directors of APSRTC giving their approval to the draft regulations. The 2nd stage is where the draft/proposed regulations are forwarded to the government for its approval and the third stage is after approval is granted by the government, the board of directors of the corporation resolve to make the regulations. Learned counsel would submit that since the board of directors have not resolved to make the regulations, after obtaining approval of the government, the regulations have not come into force, and consequently the merger of stores & purchase department with the materials department cannot be said to have been effected, in which event the question of preparing a common seniority list of employees of the material department would not arise and the petitioners must be deemed to be continuing in the purchase department and as being entitled for all consequential benefits to which they would have been entitled if they had been treated as having continued in the purchase department. Learned counsel would refer to the notification dated 26.06.1990, wherein it is stated that integration was to be done in a phased manner and till such time a separate seniority list would be maintained, and submit that since the circular provides that appointment made after 26.05.1989, by direct recruitment, would be treated to have been made in the material department instead of stores and purchase department and since the petitioners were not appointed by direct recruitment, the said stipulation was

not applicable to them.

Sri V.T.M. Prasad, learned Standing Counsel appearing for the respondents, would submit that the petitioners must be held to have acquiesced to the merger of the stores and purchase department with the materials department, since they were subsequently promoted in the material department. The 1st petitioner was promoted as senior assistant (material) in May 1999. The 4th petitioner was also promoted as senior assistant (material) in May 1999. The 2nd petitioner was appointed as deputy superintendent (material) in May 1999 by direct recruitment and the 3rd petitioner, who was appointed by direct recruitment as deputy superintendent in May 1998, was at present the superintendent (materials). Learned Standing Counsel would submit that since all the petitioners have either been promoted or appointed to higher posts in the material department, posts which they have accepted and occupied, they must be deemed to have acquiesced to the merger and application of the doctrine of approbate and reprobate would preclude them from questioning the merger.

Learned standing counsel would submit that the board of directors had passed a resolution for integration of the stores and purchase wings and for preparation of common recruitment regulations, for the cadres of stores and purchase department, vide resolution No. 81/1989 dated 26.05.1989. The resolution of the Board, as referred to by the learned Standing Counsel, reads thus:

"After deliberating the item and in the circumstances explained in the note the Board resolved to –

i. integrate the functions of the stores and purchase Wings and also to merge the seniorities of all cadres and to maintain common seniority duly taking into account of the date of entry of the employee in each cadre in which presently working as criteria for fixing up seniority;

ii. approve the amendments to the Recruitment Regulations in respect of all Supervisory and non-supervisory cadres as enumerated at Appendix-D to these Resolutions; and

iii. authorize the Managing Director to implement the same pending receipt of approval from the Government.

The government, vide letter No. 543/Tr.III (2) 89-8 dated 02.07.1992,

conveyed its sanction to the proposed amendment to the method of recruitment and qualifications in respect of purchase clerks of the purchase department of A.P.S.R.T.C. Pursuant to the sanction accorded by the government, in its letter dated 02.07.1992, the chief manager, A.P.S.R.T.C., issued notification dated 06.08.1992 informing that the government had communicated sanction for amendment as approved by the board in its resolution no. 81/89 dated 26.05.1989, and that the amended method of recruitment, qualifications and integration of stores and purchase department were as notified in the annexure enclosed to the notification. Learned standing counsel would refer to the amended regulations which provide that the posts of senior material assistant is to be filled up by promotion by selection from the rank of material assistant/typist and if suitable candidates are not available, then by direct recruitment. Learned standing counsel would also refer to the method of recruitment to the post of purchase clerk which is required to be filled up by promotion by selection from among the junior clerks and also by direct recruitment by selection, to contend that the petitioners had been appointed to higher posts under the amended regulations. Learned Standing Counsel would submit that a purposive interpretation has to be given to the words “previous sanction” in Section 45 of the Road Transport Corporation Act and that the word “previous” used therein, is not in point of time but denotes the authority of sanction of the government. Learned standing counsel would further submit that practical difficulties, which may arise if the Regulations are held as not having come into force, must also be taken into consideration by this court while placing a purposive interpretation on Section 45 of the Road Transport Corporation Act. Learned standing counsel would rely on the judgment of the Division Bench of this court in **S. Mahipal Reddy Vs. The Secretary, Govt.of A.P.,Labour Dept., Secretariat, Hyderabad**. He would refer to the letter dated 24.10.2005 issued by the principal secretary to government, TR&B department to the vice-chairman and managing director of APSRTC, wherein approval of the government was communicated for integration of the stores and purchase wing, as resolved by the board in its resolution No. 81/1989 dated 26.05.1989. While conveying its approval, the corporation was directed to ensure that proper care was taken while merging the two departments to ensure that the organizational structure and set up was so placed which facilitates division of responsibilities in a clear-cut manner.

Before considering the rival contentions, it is necessary to examine the provisions of the Road Transport Corporation Act. Section 2(aa) defines “Board” to mean the Board of Directors of the Corporation. Section 2(b) defines “Corporation” to mean the Road Transport Corporation established under Section 3 of the Act. Section 3 relates to establishment of Road Transport Corporation in States. Under Section 4, every corporation shall be a body corporate, by the name notified under Section 3, having perpetual succession and a common seal, and shall by the said name sue and be sued. Section 5 relates to the management of the corporation and to its board of directors and under sub-section (1), the general superintendence, direction and management of the affairs and business of a corporation shall vest in a board of directors which, with the assistance of its committees and managing director, may exercise all such powers and do all such acts and things as may be exercised or done by the corporation. Section 45 relates to the power to make regulations and reads as under:

“**Section 45: Power to make regulations**:-

(1) A Corporation may with the previous sanction of the State Government, make regulations, not inconsistent with this Act and the rules made thereunder, for the administration of the affairs of the Corporation.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely -

a. the manner in which, and the purposes for which, persons may be associated with the Board under Section 10;

b. the time and place of meetings of the Board and the procedure to be followed in regard to transaction of business at such meetings;

c. the conditions of appointment and service and the scales of pay of officers and other employees of the Corporation other than the Managing Director, the Chief Accounts Officer and the Financial Adviser or as the case may be, the Chief Accounts Officer-cum-Financial Adviser;

d. the issue of passes to the employees of the Corporation and other persons under Section 19;

e. the grant of refund in respect of unused tickets and concessional passes under Section 19”

The power conferred on the corporation to make regulations is a power which, under Section 5(1), vests in and is exercised by the board of directors of the corporation. While the power to make regulations relating to the conditions of service of officers and other employees of the corporation, under Section 45(2) (c) is vested in the board of directors of the corporation, such a power to make regulations can only be exercised with the previous sanction of the State Government.

The board of directors of the A.P.S.R.T.C., vide resolution No. 81 of 1989 dated 26.05.1989, resolved to amend the regulations and the government had, vide letter dated 02.07.1992, conveyed its sanction to the proposed amendment to the method of recruitment and qualifications in respect of purchase clerks of the purchase department of the A.P.S.R.T.C. After sanction was received from the government, vide its letter dated 02.07.1992, no further resolution, to approve the draft regulations, was passed by the board of directors of the corporation and instead a notification, dated 06.08.2002, was issued by the chief manager, (HRC), of the A.P.S.R.T.C. informing all officers and unions of the corporation that the amended method of recruitment and qualifications and integration of stores and purchase department were as notified in the annexure thereto i.e., the amended regulations.

The question which arises for consideration is whether the board of directors were require to approve the draft regulations, subsequent to the letter of sanction from the government dated 02.07.1992. While Sri G. Vidyasagar, learned counsel for the petitioners, would contend that Section 45 of the Road Transport Corporation Act would require such approval by the board, Sri V.T.M. Prasad, learned standing counsel for the A.P.S.R.T.C. would contend that it was not necessary for the board to do so and that the resolution passed by the board earlier on 26.05.1989 would suffice.

The answer to this question, would depend on the meaning of the word “previous” used in Section 45 of the Road Transport Corporation Act. In the New Oxford dictionary of English language (Indian edition) the meaning ascribed to the word “previous” is: existing occurring before in time or order.” In Blacks Law dictionary the word “previous” has been given the meaning “antecedent; prior; before”. According to P. Ramanath Aiyer Law Lexicon

reprint edition the word “previous” means “going before in time; antecedent; prior and earlier.”

The expression “previous approval” in the proviso to Section 115(7) of the States Reorganization Act 1956 came up for consideration before the Supreme Court in **N. Raghavendra Rao Vs Deputy Commissioner, South Kanara, Mangalore**.

Section 115(7) of the States Reorganization Act reads as under:

“Nothing in this section shall be deemed to affect after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the Union or any State:

Provided that the conditions of service applicable immediately before the appointed day to the case of any person referred to in sub-section (1) or sub-sec. (2) shall not be varied to his disadvantage except with the **previous approval** of the Central Government.” (emphasis supplied)

The Supreme Court in **N. Raghavendra Rao** (3 supra) held that the broad purpose underlying the proviso to Section 115(7) was to ensure that the conditions of service should not be changed except with the prior approval of the central government. In other words, before embarking on varying the conditions of service, the state governments should obtain, the concurrence of the central government.

Thus, under Section 45 of the Road Transport Corporation Act, the board of directors, before embarking on making the regulations or carrying out amendments thereto, were required to obtain sanction of the state government. It is only after sanction is obtained, would section 45 of the Road Transport Corporation Act empower the board of directors of the corporation to make the regulations. Resolution No. 81 of 1989, dated 26.05.1989 of the board of directions of the corporation, passed prior to obtaining sanction, must be held only to be a tentative decision or a proposal to amend the regulations, which proposal was accorded sanction by the government on 02.07.1992. The board of directors of the corporation, thereafter, were required to make the regulations. In other words, the board of directors ought to have resolved to approve the earlier draft regulations to which sanction was accorded by the Government. The Full Bench of the Madhya Pradesh High Court in

Ramachandra (1 supra) held thus:

"Regulations made under Section 45 of the Road Transport Corporations Act, 1950 require three steps:

a. Corporation must by resolution propose the regulations and send them for sanction of the State Government;

b. The State Government then accords its sanction. In this power of the Government it is implicit that it may reject or suggest; amendment or modification in the proposed regulations. This is the force of the word "Previous" in the expression "with the previous sanction of the State Government.

c. The corporation has then to "make" the Regulations by a resolution, and publish it."

The third step, as held in **Ramachandra** (1 supra) has not been completed and the regulations therefore cannot be said to have come into force.

It is not in dispute that, after sanction was accorded by the government, vide its letter dated 02.07.1992, no resolution or decision was taken by the Board of Directors of A.P.S.R.T.C. to amend the regulations. The requirements of Section 45 of the Road Transport Corporation Act have therefore not been complied with and the amended regulations cannot be said to have come into force.

The contention of Sri V.T.M. Prasad, learned standing counsel for A.P.S.R.T.C., that a purposive construction should be placed upon Section 45 of the Road Transport Corporation Act, and that the word "previous" used therein is not in point of time but denotes the authority of sanction of the government, cannot be accepted. As referred to earlier, the meaning assigned to the word "previous" in several dictionaries relate only in point of time and not to the authority of the government. It was therefore incumbent on the board of directors of the A.P.S.R.T.C., after receipt of sanction from the government, vide letter dated 02.07.2002, to have passed a resolution afresh approving the draft regulations and till such a decision is taken by the board of directors of the corporation, the regulations remain mere draft regulations and cannot be given effect to.

It is a settled rule of interpretation of statutes that when power is given under a statute to do a certain thing in a certain way the thing must be done in that way or not at all. (**Gujarat Electricity Board Vs.Girdharlal Motilal**; **State of Gujarat Vs. Shantilal Mangaldas**, **Hukam Chand Shyam Lal Vs. Union of India**; **Commissioner of income tax Vs. Anjum M.H. Ghaswala** and **Babu Verghese Vs. Bar Council of Kerala**. Since, in the present case, the procedure prescribed under Section 45 of the Road Transport Corporation Act, for making the regulations, has not been complied with, the regulations must be held as having not yet come into force.

The contention of Sri V.T.M. Prasad, learned standing counsel for A.P.S.R.T.C, that practical difficulties, which may arise if the regulations are held as having not come into force, must be taken into consideration while giving a purposive interpretation to Section 45 of the R.T.C. Act, cannot also be accepted. What one may believe or think to be the purpose cannot prevail where there is no ambiguity in the statutory provision. (**Gem Granites Vs. Commissioner of Income Tax**). While a purposive interpretation is permissible in interpretation of statutes, no interpretation ought, normally, to be placed on any provision which may render any part thereof redundant or a mere surplussage.

In the Interpretation of statutes, courts always presume that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect. These presumptions will have to be made in the case of the rule making authority also. (**J.K. Cotton Spining & Weaving Mills Co. Ltd. Vs. State of U.P**) . No principle of Interpretation of statutes is more firmly settled than the rule that the court must deduce the intention of the legislature from the words used in the Act. (**Union of India Vs. Sankalchand Himatlal Sheth; WestMinister Bank Ltd Vs. Zang**). The words of a statute never should, in interpretation, be added to or subtracted from without almost a necessity. (**Shyam Kishori devi Vs. Patna Municipal Corporation**). It is a well-settled rule of interpretation that the court should, as far as possible, construe a statute so as to avoid tautology or superfluity. The rule that a meaning should, if possible, be given to every word in the statute

implies that, unless there is good reason to the contrary, the words add something which has not been said immediately before. The intention of the legislature is primarily to be gathered from the language used. The legislature is deemed not to waste its words or say anything in vain and a construction which results in rejection of words as meaningless has to be avoided. (**Hill Vs. William Hill (Park lane) Ltd; Shri Umed Vs. Raj Singh; Ghanshyam das Vs. Regional Asst. Commissioner, Sales Tax**). The intention of the legislature is primarily to be gathered from the language used, and as a consequence a construction, which results in rejection of words as meaningless, has to be avoided. It is not a sound principle of construction to brush aside words in a statute as being inapposite surplassage, if they can have appropriate application in circumstances conceivably within the contemplation of the statute (**Ashwini Kumar Ghose Vs. Arabinda Bose; Rao Bahadur Singh Vs. Stte of U.P.; Mithilesh Singh Vs. Union of Indi**).

Meaning which words ought to be understood to bear is not to be ascertained by any process akin to speculation and the primary duty of the court is to find the natural meaning of the words used in the context in which they occur. (**Shahadara (Delhi) Saharanpur Light Railway Co. Ltd Vs. Workers Union**) In interpreting statutes, it is safer to rely on the obvious meaning rather than to investigate the imponderables. The words have to be understood in their usual and most known signification. The legislature must have had some intention in choosing the expression “previous” before the word “sanction”. The intention obviously is that sanction of the Government should be obtained before regulations are made by the corporation. (**State of U.P. Vs. Radhey Shyam Nigam**).

Accepting the contention of the learned Standing Counsel would necessitate the word “previous” used in Section 45 of the Road Transport Corporation Act being ignored or treated as a mere surplussage, a construction, which should, normally, be avoided. Practical difficulties or hardship would not justify a departure from a literal interpretation where the words of a statute are clear and unambiguous. It is well to remember that courts are not concerned with legislative policy or with the result, whether injurious or otherwise, by giving effect to the language used nor is it the function of the court, where the meaning is clear not to give effect to it merely

because it would lead to some hardship. (**Easland Combines Vs. CCE**).

Since the amended regulations must be held as having not yet come into force, the posts of assistant store keeper or junior clerk (purchase) as existing in the pre-amended regulations, (merged under the draft regulations into the category of material assistant), and the posts of assistant store keeper or purchase clerk in the pre-amended regulations, (merged, under the draft regulations, into the posts of senior material assistants), must be held as continuing to exist. The petitioners, consequent to their conversion as junior clerks (purchase), would therefore be entitled to the benefits of promotion within the purchase department in accordance with the pre-amended regulations and for being included in the seniority lists of junior assistant (purchase). To a query from the Court as to whether the petitioners were willing to forego their subsequent promotions, under the amended regulations, and to take the consequences of their being treated as junior clerks (purchase), under the pre-amended regulations, Sri G. Vidyasagar, learned counsel for the petitioners would answer in the affirmative. Learned counsel would submit that events subsequent to the filing of the writ petitions ought not to be taken into consideration and the mere fact that the petitioners were subsequently promoted would not disentitle them from seeking continuance in the purchase department as junior clerks (purchase) and for further promotions, in the purchase department, which would accrue thereby. Learned Counsel would submit that petitioners have not acquiesced to the amended regulations and that the principle of approbate and reprobate has no application.

The mere fact that the petitioners, subsequent to the filing of the writ petition, were promoted/appointed in higher posts would not render their earlier challenge invalid. The petitioners have questioned their non-consideration and deprivation of promotion to the post of senior assistant (purchase), and their non-inclusion in the seniority list of junior assistant (purchase), as in violation of Articles 14 and 16 of the Constitution of India. The plea of estoppel is closely connected with the plea of waiver. There can be no waiver of the fundamental rights guaranteed under part III of the Constitution of India (**Basheshar Nath Vs. Commissioner of Income-tax, Delhi**; **Olga Tellis Vs. Bombay Municipal Corporation**).

Acquiescence, waiver or the principles of approbate and reprobate have no application, since enforcement of the draft regulations, thereby denying the petitioners, their right for being considered for further promotions in the purchase department or for their being included in the seniority list of junior assistant (purchase), would not only be contrary to Section 45 of the Road Transport Corporation Act, but would also be ultra vires and in violation of Articles 14 and 16 of the Constitution of India. The respondents cannot deny the petitioners, their right to be included in the seniority list of junior assistants (purchase) and for being considered for promotion to higher posts in the purchase department.

Reliance placed by Sri V.T.M. Prasad, learned standing counsel for the A.P.S.R.T.C., on the judgment of the Division Bench of this Court in **S. Mahipal Reddy** (2 supra) is not apposite. The said judgment only dealt with the question as to whether regulations, made under Section 45 of the Road Transport Corporation Act, were required to be published in the gazette. It is in this context that the Division Bench held that regulations could be published in any reasonable mode, other than by way of publication in the gazette also, since the Road Transport Corporation Act did not prescribe any particular mode of publication of the regulations. The judgment in **S. Mahipal Reddy** (2 supra) has no application to the facts of the present case, since the question involved here is not whether the regulations have been published in a reasonable manner, but as to whether the board of directors of the A.P.S.R.T.C. had, in compliance with Section 45 of the R.T.C. Act, made the regulations after sanction had been accorded thereto by the government vide its letter dated 02.07.1992.

The writ petition is accordingly allowed. The action of the respondents in notifying the petitioners in the cadre of junior assistants (material) and in placing them in the seniority list of junior assistants (material) is illegal. The respondents are directed to include the petitioners in the seniority list of junior assistants (purchase), pursuant to the conversion order dated 09.11.1989, with all consequential benefits. There shall however be no order as to costs.

Dt: 16 .11.2005

RAMESH RANGAHANTHAN, J

Note: L.R. copy be marked

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MRKR/ASP